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Sun Microsystems, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SUN MICROSYSTEMS, INC., a Delaware
corporation,

Plaintiff-Counterclaim Defendant,

v.

NETWORK APPLIANCE, INC.

Defendant-Counterclaim Plaintiff.

CASE NO. C-07-05488 EDL

**STIPULATION AND ~~PROPOSED~~
ORDER EXTENDING DISCOVERY
DEADLINE**

Despite the parties' efforts to complete discovery in accordance with the existing schedule, the large breadth of issues to be addressed in the parties' litigation, and the substantial volume of discovery remaining to be completed, lead the parties to conclude that an extension of the fact discovery cutoff is necessary for the more orderly and efficient resolution of their disputes. Consequently, the parties stipulate that the fact discovery deadline should be extended from December 17, 2008 to April 24, 2009 and request that the Court enter an order to that effect.

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STIP & [PROPOSED] ORDER EXTENDING DISCOVERY DEADLINE
USDC CASE NO. C-07-05488 EDL

Moreover, as reflected in the parties' August 7, 2008 Joint Report Regarding 14 Proposed Terms for Claim Construction (Docket No. 132), the Court ordered the parties to narrow the patents-in-suit to four NetApp patents and five Sun patents for claim construction. In light of this, the parties agree that this new fact discovery deadline (including all deadlines calculated therefrom) should not apply to non-selected patents, which are not proceeding through claim construction at this stage. Accordingly, the parties hereby stipulate to and jointly request that the Court simply vacate the December 17, 2008 deadline for fact discovery with respect to the following patents-in-suit: U.S. Patent Nos. 6,049,528 and 7,130,873.

Dated: November 14, 2008

DLA PIPER LLP (US)

/s/ Christine K. Corbett

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Dated: November 14, 2008

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~~[PROPOSED]~~ ORDER

Having considered the parties' stipulation, the joint request for relief is **GRANTED**. The December 17, 2008 deadline for fact discovery is hereby continued to April 24, 2009, and all deadlines calculated based on the close of fact discovery are modified accordingly. However, with respect to U.S. Patent Nos.: 6,049,528 and 7,130,873, the December 17, 2008 deadline for fact discovery (including all deadlines calculated therefrom) is simply vacated.

Dated: November 18, 2008

